

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

HEARTS ON FIRE COMPANY, LLC,

Plaintiff,

v.

EIGHTSTAR DIAMOND COMPANY,

Defendant.

CIVIL ACTION NO. 04 12258-JLT

Hearing Requested

**MOTION FOR SUMMARY JUDGMENT**

Pursuant to Fed. R. Civ. P. 56, defendant EightStar Diamond Company ("EightStar") moves for summary judgment. In support of this motion, EightStar relies on the accompanying memorandum of law, affidavits and pleadings, all which show that there is no genuine issue as to any material fact and EightStar is entitled to judgment as a matter of law.

EIGHTSTAR DIAMOND COMPANY  
By its attorneys,

MILLER NASH LLP

/s/ James Phillips

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Attorneys for Defendant  
EightStar Diamond Company  
*Admitted Pro Hac Vice*

Dated: March 10, 2006

**Certification of Compliance with Local Rule 7.1(A)(2)**

I, James L. Phillips, Esq., hereby certify that I have conferred with counsel in an attempt to resolve or narrow the matters contained in this motion. After conferring, the parties are unable to resolve or narrow these particular matters.

/s/ James L. Phillips  
James L. Phillips

**Certificate of Service**

I hereby certify that this document(s) filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non registered participants on March 10, 2006.

/s/ James L. Phillips  
James L. Phillips